

**23.2-16. Appeals**

(a) An owner of a property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the Chesapeake Bay Board no later than 30 days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application. A nonrefundable processing fee of \$250.00 shall accompany each application for an appeal.

(b) In rendering its decision, the board shall:

- (1) Examine the language of this chapter to determine whether the language is clear or is subject to more than one interpretation;
- (2) If, in the opinion of the board, the language is clear, the board will require the applicant to show that his case is not within the intent of the regulation. In these cases, the board will assume that the administrative decision is correct and the applicant will bear the burden of proof;
- (3) If the language of this chapter is unclear, the board will inquire as to whether the decision made by the official involved is consistent with previous administrative determinations in similar situations;
- (4) If the administrative decision is consistent with prior decisions, the applicant will prevail only if the administrative decision is not within the intent and purpose of the ordinance and, therefore, so arbitrary or unreasonable that the board must substitute its own interpretation and overturn the administrative decision. If the administrative decision is both consistent and reasonable, the board will uphold it;
- (5) If the administrative decision is inconsistent with prior decisions, the Board will carefully examine all factors involved to ensure that the appearance of an arbitrary decision is overcome by a legitimate attempt to further the intent and purpose of this chapter.

In applying these guidelines, the board will consider any pertinent factors that arise during the public hearing.

(c) An owner of a property subject to a board decision, order or requirement, or the County at the initiative of the Board of Supervisors, may appeal to the Circuit Court.

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**Sec. 23.2-18. Civil penalties**

- (a) Without limiting the remedies which may be obtained under this section, any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception, or permit condition authorized under this chapter shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA therein, in such a manner as the court may direct by order, except that where the violator is the county itself or its agent, the court shall direct the penalty to be paid into the state treasury.
- (b) Without limiting the remedies which may be obtained under this section, and with the consent of any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception or permit condition authorized under this chapter, the county may provide for the issuance of an

order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA, except that where the violator is the county itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision (a) of this section. Civil charges may be in addition to the cost of any restoration required or ordered by the county.

- (c) In addition to and not in lieu of the penalties prescribed in sections (a) and (b) hereof, the county may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this ordinance and may seek any other remedy authorized by law.